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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,591	02/23/2004	Charles Black	YOR920010225US2	9561
47939	7590	01/23/2007	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ LLP (FOR IBM YORKTOWN CASES) P.O. BOX 2207 WILMINGTON, DE 19899-2207			GOODWIN, DAVID J	
			ART UNIT	PAPER NUMBER
			2818	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/23/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/784,591	BLACK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David Goodwin	2818	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 27 November 2006.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 20,24,35,37,50 and 51 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 20,24,35,37,50 and 51 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 37, 50, 20, 35, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman (US 2001/0036052) in view of Li (US 2002/0022278).
  1. Regarding claim 37
  2. Hartman teaches a dielectric layer made from nanoparticles (paragraphs 0021-0025). Wherein the particles are 20 nm in diameter (paragraph 0022). Said particles are preferably barium strontium titanate which has a perovskite crystalline structure.
    1. Li teaches a dielectric layer comprising grains of uniform size having less than 10% deviation (paragraph 0042).
    2. It would have been obvious to one of ordinary skill in the art to make the nanoparticles of a uniform size in order to improve their performance in non-volatile memories (Li paragraph 0024).
  3. Regarding claim 50.
  1. Hartman teaches that the layer comprises 60% nanoparticles (paragraph 0024).
  4. Regarding claim 20.
  2. Hartman teaches that the layer comprises 60% nanoparticles (paragraph 0024).
  5. Regarding claim 35.

3. Hartman teaches that the layer comprises 60% nanoparticles (paragraph 0024).
6. Regarding claim 24.
4. Hartman teaches that the particles comprise barium titanate, which has a formula of BaTiO<sub>3</sub>.
5. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman (US 2001/0036052) in view of Li (US 2002/0022278) as applied to claim 20 above, and further in view of Constantino (US 2001/0048969).
6. Hartman in view of Li teaches elements of the claimed invention in the rejection of claim 20 above.
7. Hartman in view of Li does not teach that the layer comprises 90-100% nanoparticles.
8. Constantino teaches that the layer comprises particles of barium titanate material forming 93-98% of the material with the remaining 2-7% of the material being metal oxides (paragraph 0052).
9. It would have been obvious to one of ordinary skill in the art to provide a layer comprising 90% ferroelectric particles in order to strengthen the ferroelectric dipole moment.

***Response to Arguments***

10. Applicant's arguments with respect to claims 37, 50, 51, 20, 24, and 35 have been considered but are moot in view of the new ground(s) of rejection.

11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that there is no polymer matrix, nanoparticle coating) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Goodwin whose telephone number is (571)272-

8451. The examiner can normally be reached on Monday through Friday, 9:00am through 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith can be reached on (571)272-1907. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJG

*Andy May, Jr.*  
Andy May, Jr.  
Primary Examiner